



Rhode Island Department of Health

**Decision for Approval with Conditions
from the Director of the Rhode Island Department of Health**

**With Respect to the Application of Care New England Health System for the
Elimination of the Emergency Department at
Memorial Hospital of Rhode Island**

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Director of the Rhode Island Department of Health
December 28, 2017**

Table of Contents

PURPOSE AND BACKGROUND	1
LEGAL AUTHORITY	1
CNE’S PLAN FOR ELIMINATION OF THE EMERGENCY DEPARTMENT	2
REVIEW PROCESS	3
REVIEW CRITERIA	4
PUBLIC COMMENT	4
TRADITIONALLY UNDERSERVED	8
IMPACT ON PROVIDERS AND STAFF	9
FINDINGS.....	11
DECISION WITH CONDITIONS.....	13

PURPOSE AND BACKGROUND

The purpose of this document is to render the Decision for Approval with Conditions of the Director of the Rhode Island Department of Health (“RIDOH”) with respect to the application of Care New England Health System (“CNE”) to eliminate the Emergency Department located at the Memorial Hospital of Rhode Island (“MHRI”).

MHRI, whose parent entity is CNE, is a not-for-profit hospital located at 111 Brewster Street in Pawtucket, Rhode Island.

The instant proposal strictly relates to CNE’s November 2, 2017 plan to eliminate the Emergency Department at MHRI on a date certain after regulatory review and approvals are obtained from the Director of RIDOH (“Director”).

MHRI’s primary service area includes the communities of Pawtucket, Central Falls, Cumberland, Lincoln, and East Providence; as well as the neighboring Massachusetts communities of Attleboro, North Attleboro, Seekonk, and Plainville.

LEGAL AUTHORITY

The Director’s decision-making authority is granted in RIGL 23-17.14-18 (“Prior approval – Closings or Significant Reduction of Medical Services”), RIGL 23-1-1 (“General Functions of Department”), and Section 10.0 (“Elimination or Reduction in Emergency Department and Primary Care Services”) of the [Rules and Regulations Pertaining to Hospital Conversions](#) (“Hospital Conversions Regulations”).

The purpose of the law ([Hospital Conversions Act](#) RIGL 23-17.14-3) is set forth as follows:

- (1) Assure the viability of a ***safe, accessible and affordable healthcare system (emphasis added)*** that is available to all of the citizens of the state;
- (2) To establish a process to review whether for-profit hospitals will maintain, enhance, or disrupt the delivery of healthcare in the state and to monitor hospital performance to assure that standards for community benefits continue to be met;
- (3) To establish a review process and criteria for review of hospital conversions;
- (4) To ***clarify the jurisdiction and the authority of the Department of Health to protect public health and welfare (emphasis added)*** and the department of attorney general to preserve and protect public and charitable assets in reviewing both hospital conversions which involve for-profit corporations and hospital conversions which include only not-for-profit corporations; and
- (5) To provide for independent foundations to hold and distribute proceeds of hospital conversions consistent with the acquiree’s original purpose or for the ***support and promotion of health care and social needs in the affected community (emphasis added)***.

In addition to setting forth a review process for hospital conversions or mergers, the regulations promulgated under the Hospital Conversions Act set forth provisions related to charity care, community benefits, and the elimination or reduction in emergency department and primary care services.

Section 10.1 of the Hospital Conversions Regulations requires that: "No hospital emergency department or primary care services which existed for at least one (1) year and which significantly serve uninsured or underinsured individuals shall be eliminated or significantly reduced without the prior approval of the Director in accordance with section 23-17.14-18 of the Rhode Island General Laws, as amended."

CNE'S PLAN FOR ELIMINATION OF THE EMERGENCY DEPARTMENT

As required by the Hospital Conversions Act (and its related regulations) and as outlined above, CNE submitted a plan on November 2, 2017 to RIDOH to eliminate the Emergency Department at MHRI. The plan contained information required by Section 10.1.2 of the Hospital Conversions Regulations:

- A description of the services to be reduced or eliminated;
- The proposed change in hours of operation, if any;
- The proposed changes in staffing, if any;
- The documented length of time the services to be reduced or eliminated have been available at the facility;
- The number of patients utilizing those services that are to be reduced or eliminated annually during the most recent three (3) years;
- Aggregate data delineating the insurance status of the individuals served by the facility during the most recent three (3) years;
- Data describing the insurance status of those individuals utilizing those services that are to be reduced or eliminated annually during the most recent three (3) years;
- The geographical area for which the facility provides services;
- Identification and description, including supporting data and statistical analyses, of the impact of the proposed elimination or reduction on:
 - 1) access to health care services for traditionally underserved populations, including but not limited to, Medicaid, uninsured and underinsured patients, and racial and ethnic minority populations;
 - 2) the delivery of such services on the affected community: emergency and/or primary care in the cities and towns whose residents are regularly served by the hospital (the "affected" cities and towns);
 - 3) other licensed hospitals or health care providers in the affected community or cities and towns; and,
 - 4) other licensed hospitals or health care providers in the state; and,
- Such other information as the Director deems necessary.

In accordance with Section 10.1.4 of the Hospital Conversions Regulations, the Department must deem the plan complete and acceptable for review in order to commence the 90-day review period. On November 9, 2017, RIDOH notified CNE that an administrative review of the proposals to eliminate the Emergency Department at MHRI would commence on November 10, 2017 and conclude within 90 days.

On November 6, 2017, RIDOH notified CNE that *MHRI's current services, including but not limited to, inpatient, emergency and intensive care services, must remain open and fully staffed in a routine manner, meeting all applicable state and federal statutes and regulations until such time as the Director of Health receives formal notification of closure and issues final approval of an orderly plan of closure, and second, until the Director of Health issues a final decision on MHRI's plan to cease providing Emergency Department services.*

During the course of the review, RIDOH was informed that MHRI's contract with the group that provides anesthesia services had been refused the option to extend the contract expiration date, and was only left to terminate effective November 30, 2017. Additionally, RIDOH was informed that MHRI did not have a functional Intensive Care Unit and MHRI no longer had any on-site gastrointestinal physicians or orthopedists, among other specialties.

In the interest of protecting patient safety and quality of care, on November 30, 2017, RIDOH issued a Consent Order to CNE stipulating that effective December 1, 2017, EMS services will no longer transport patients to MHRI, no new patients will be admitted at MHRI, and no surgeries will be performed at MHRI. RIDOH had determined that MHRI did not have the staffing levels necessary to safely administer care in those specific areas.

In a separate, but related matter, on November 22, 2017, CNE submitted a plan to RIDOH to transfer the provision of primary care services currently provided under the MHRI license to the Kent Hospital license. CNE subsequently amended its proposed plan to include the Women & Infants Hospital license. On November 24, 2017, RIDOH notified CNE that an administrative review would commence on November 25, 2017. However, CNE has made a commitment that these primary care services will remain in Pawtucket. This administrative review remains ongoing before RIDOH.

This Decision contained herein is limited to the elimination of the Emergency Department at MHRI.

REVIEW PROCESS

In accordance with Section 10.1.3 of the Hospital Conversions Regulations, the Director must "determine based upon the public interest in light of attendant circumstances whether the services affected by the proposed elimination or reduction significantly serve uninsured and/or underinsured individuals." The Director has determined that the Emergency Department at MHRI significantly serves uninsured and/or underinsured individuals, triggering review of the plan by RIDOH staff.

Section 10.1.4 of the Hospital Conversions Regulations further provides that ".....the Director shall have the sole authority to review all plans submitted under this section..." Furthermore, the Decision of the Director must be issued within 90 days of the receipt of a completed plan or the plan is automatically approved. A public comment period is permitted but is not required.

REVIEW CRITERIA

The Director shall consider the impact of the proposed elimination or reduction on the following criteria:

- 1) access to health care services for traditionally underserved populations, including but not limited to, Medicaid, uninsured and underinsured patients, and racial and ethnic minority populations;
- 2) the delivery of such services on the affected community: emergency and/or primary care in the cities and towns whose residents are regularly served by the hospital (the “affected” cities and towns);
- 3) other licensed hospitals or health care providers in the affected community or cities and towns; and,
- 4) other licensed hospitals or health care providers in the state; and,

PUBLIC COMMENT

Opportunity to provide comments was offered in the form of two public meetings and submission of written comments by December 11, 2017.

The general themes contained in many of the statements at the public meetings and within the written comments were pleas to keep the hospital open as an acute care hospital in Pawtucket to serve those patients who have transportation challenges to other hospitals. Furthermore, several comments were made and received by the public to maintain the Residency Program at MHRI.

The public meetings were convened by RIDOH as follows:

	MHRI Public Meetings	
Date	Monday, November 27, 2017	Monday, December 4, 2017
Time	5:00 p.m. – 7:00 p.m.	5:00 p.m. – 7:00 p.m.
Location	Goff Junior High School 974 Newport Avenue Pawtucket, RI 02861	Elizabeth Baldwin School 50 Whitman Street Pawtucket, RI 02861

November 27th Public Meeting

At the November 27th meeting, there were 141 people in attendance and 25 people provided public comments.

At the November 27th meeting, Joseph Oriti, Chief Administrative Officer at MHRI, stated:

When the plan to close Memorial was first announced, the reason included the chronic financial losses being incurred at Memorial resulted in operating loss in the past fiscal year of \$21 million. In the four years prior to CNE's acquisition of Memorial Hospital, the hospital lost approximately \$65 million. Since CNE's acquisition in 2013 Memorial has lost \$91 million....

Today due to service readiness, staffing, operational requirements and licensure conditions, Memorial loses approximately two million monthly. In addition, daily inpatient census averages approximately 15 to 20 patients. In fact, the inpatient census this morning was just eight. Further, 70 percent of the patients from Pawtucket do not use Memorial and 82 percent of patients from broader Memorial service area go other places for healthcare, while physicians also send their patients elsewhere. For these reasons Memorial cannot be adequately staffed and clinically staffed and serve patients and clinically satisfy in a viable manner.

With regard to our employees, we are looking for opportunities for these dedicated hard-working employees. We are placing them in other jobs across the system. We are also hosting a series of job fairs and finally and perhaps most importantly let me address our ongoing commitment to care for the community here.

At the November 27th meeting Al Charbonneau, Executive Director of the Rhode Island Business Group, stated:

...People often talk about the quality of care will suffer with a hospital closure. And I think in some respects when you get hospitals closing where there is two or three-hour travel distances, I think that argument can be made. However, when you look at, as Harvard Medical School Faculty just did in an article published in Health Affairs, that for the most part hospital closure does not represent or lead to decrease in hospital care or quality of care.

In fact, the argument sometimes is made that with too much capacity you get over utilization of hospital services which is as much a problem as under utilization. And, third, it is already quoted that 2013 EOHHS report on bed capacity argues that we do have too much capacity here in Rhode Island. I point out the fourth lesson is that in Rhode Island and across the nation hospital costs are the single largest component of premiums, small group, large group, even Medicare costs. It is the largest component. So, if we keep having those costs, premium health insurance may never be affordable to the general population.

Finally, I will close by saying I think that with the closure of a hospital in particular there is a real genuine opportunity to innovate on what facilities are left behind and how you will care for those people. And, the Rhode Island Business Group truly hopes that you will consider this an opportunity to sustain the closure of the organization and innovate to meet the needs of the community.

At the November 27th meeting, Dr. John Miskovsky, a primary care physician and internist in Pawtucket, stated:

The application before you today I know relates to Emergency Department services and the elimination of Emergency Department services. Looking at the statistics... from October 2015 to September 2016 all Rhode Island facility emergency departments diverted 84 times for a total of 307 hours. For the corresponding year 2016 to September 2017 Rhode Island facilities diverted for 730 hours and a total of 124 diversions. The system is already starting to see the effects of Memorial Hospital self diverting. That is with Memorial Hospital still open and seeing 30,000 up to 40,000 at its height Emergency Department visits a year. If you eliminate the emergency services in Pawtucket as Dr. McCool has said, you will not only negatively impact medical services here in Blackstone Valley, but you will negatively impact the delivery of Emergency Department services throughout the State. I urge you to think about that before granting that application.

December 4th Public Meeting

At the December 4th meeting, there were 56 people in attendance and 12 people provided public comments.

At the December 4th meeting, Dr. James Fanale, Executive Vice President and Chief Operating Officer at Care New England stated the following:

One of the most important things that I want to say, I think it is a reflection that the issue just made is an issue of safety. This is absolutely not an indictment of any individual staff, physician, staff members, or nurse. It is not. But for a hospital to truly care for its patient, they need to have every backup. They need a trained ICU, gastroenterology staff, systems, equipment, processes. In no way does the safety dialogue translate to any complaint or concern about any of our individuals or staff. I often comment on the dedication and of staff to hang in there and applaud them as the most dedicated and caring staff I have encountered.

The future is they plan to provide primary care services which is what the community is using will continue. Add specialty offices and oncology, cardiology and the like, including diabetic education will continue with a robust presence in Pawtucket.

At the December 4th meeting, Ted Orson, Legal Counsel to the City of Pawtucket, stated if the request is approved the Director should look to impose conditions on CNE's proposal to eliminate the Emergency Department at MHRI. Among other things, Attorney Orson suggested several conditions including the following:

The Director should order Pawtucket Memorial, order that the Pawtucket Memorial primary care practice in internal medicine and family care be preserved at its present level or add and increase in size and it should be located in the current campus, a central location for the communities that we have discussed, the vulnerable communities in Pawtucket and Central Falls.

The residency program should be maintained at Pawtucket Memorial. The residents are needed to provide primary care services to this underserved community and learn important life lessons from this patient population....

... The Director should order that an urgent care center be located in the existing emergency room which has recently been upgraded at the cost of millions of dollars, tied with that is an offer from another local provider to provide radiologic imaging services...

...The Director should engage at Care New England's expense a consultant to advise as to which other health services are necessary to protect the health and well being of Pawtucket and Central Falls most vulnerable populations. Thereafter, Care New England should be required to provide those services as a condition of the closure of the Emergency Department.

Written Comments

A total of 45 written comments were submitted and received by RIDOH.

A letter dated November 27, 2017 was received by RIDOH from Donald R. Grebien, Mayor of the City of Pawtucket, Mayor Grebien stated:

While we oppose the pending application, and believe that emergency services should remain at the Hospital campus, if DOH approves the application, we request that DOH make CNE's commitment to retain the Hospital's primary care services within the City of Pawtucket, along with all other health care services which DOH determines will be needed for the continued access of health care for our residents, conditions to the approval of any such closure.

We further urge DOH that when it considers CNE's closure plan, it does so within the context that cities of Pawtucket and Central Falls are financially distressed and have no surplus funds in order to provide additional emergency services or transport services to their underserved, uninsured and underinsured populations.

A letter dated November 27th, 2017 was received by RIDOH from Senators Elizabeth Crowley, William Conley, Jr., Donna M. Nesselbush, and James E. Doyle, II. This letter stated:

For over 100 years, the members of our community have relied upon the health care services provided at Memorial Hospital. Many of the people who receive healthcare through Memorial Hospital are economically disadvantaged, elderly and/or have mobility issues. They may not have ready access to transportation or the means to seek care at another facility....

The letter further stated,

We particularly urge you to reconsider the closing of the Emergency Department at Memorial Hospital. The department is relatively new, there is a great deal of need for emergency care in the area, and the Miriam Hospital ER is smaller than Memorial's. Sending our constituents to the Miriam ER is unfair to them and unfair to the residents of Providence who already use the Miriam Hospital. Since Memorial closed down its ER, it has been reported to us that the wait times at the Miriam ER have skyrocketed to unacceptable levels.

A letter dated December 4, 2017 from Arthur J. Sampson, President of the Miriam Hospital, and Margaret Van Bree, MHA, D.Ph., President of Rhode Island Hospital, stated:

While it appears that much of the inpatient volume from Memorial Hospital has already been absorbed, according to publicly available data, Memorial has averaged around 30,000 Emergency Department visits annually in the past 5 years. Further, ambulance run data obtained from the Department reveals a steady flow of 600 ambulances a month to Memorial Hospital. Even with the winding down of Memorial Hospital that has taken place over the past several months and the recent diversion of ambulances, there have already been over 250 ambulance runs as of mid-November 2017. This is not to mention the variety of outpatient services currently offered at Memorial. Our respective hospitals have certainly experienced an increase in patient volume but the full effect of this closure on our hospitals remains to be seen.

The letter further stated,

The most acute need that should be addressed immediately relates to patients with behavioral health needs. Given the scarcity of inpatient behavioral health services, it is common that patients in Emergency Departments are left waiting, sometimes for extended periods, until there is an available inpatient bed. This problem will only worsen with one less Emergency Department. Furthermore, ambulance transport of patients with behavioral health emergencies (who likely will need inpatient treatment) to hospitals that do not have inpatient behavioral health programs is not fair to these patients or those hospitals. It inevitably will result in a delay in the definitive treatment for these patients.

A letter dated December 10, 2017 from Dr. Dennis McCool, Chief of Medicine at MHRI stated:

Closure of the Memorial ED would have a devastating impact on our neighboring hospitals. During this past year when Pawtucket rescue has been forced to divert to Miriam and RI Hospital, the EDs at our sister institutions have been “bursting at the seams”. I hear this directly from my colleagues who work at both institutions... These long ED waits affect all communities of RI.

TRADITIONALLY UNDERSERVED

As noted above, the Director must determine whether the services affected by the proposed elimination or reduction significantly serve uninsured or underinsured individuals. Demographic data are presented below to describe a MHRI community that is traditionally underinsured and underserved.

MHRI reports that over 50% of its patient population lives in the Pawtucket, Central Falls, and the Providence geographical areas.

Census data¹ reveal that the number of persons below the Federal Poverty Level in Pawtucket from 2012 to 2016 was 19.9%. In Central Falls, an estimated 32.7% of the community fell below

¹ U.S. Census Data. “American Fact Finder”, American Community Survey 5 year Estimates 2012-2016 Available on www.census.gov Accessed on December 20, 2017

the Federal Poverty Level for that same time period. For the city of Providence, an estimated 28.2% of the community fell below the Federal Poverty Level.

Additional demographic data for MHRI's service area are presented in Table 1 below.

Table #1: Demographic Indicators for MHRI's Service Area, 2010 – 2014

Demographic Indicator	Pawtucket	Central Falls	Providence	Rhode Island
(All numbers in this table represent percentages and cover the time period 2012 - 2016)				
Persons below federal poverty level	19.9%	32.7%	28.2%	13.8%
No health insurance coverage	11.8%	25.1%	14.1%	8.0%
Civilian labor force percent unemployed	11.6%	10.4%	11.0%	7.7%
White	63.3%	51.4%	51.1%	81.0%
Black or African American	18.9%	21.8%	15.9%	6.5%
American Indian and Alaska Native	0.5%	0.9%	1.3%	0.5%
Asian	1.6%	0.5%	6.5%	3.3%
Persons of Hispanic or Latino Origin	22.7%	63.8%	41.7%	14.1%

Access to health insurance has expanded significantly since 2014 when Rhode Island launched its health care marketplace (HealthSource RI), pursuant to the federal Affordable Care Act, and Medicaid coverage was expanded to childless adults ages 19 - 64. As a result, the percentage of persons without health insurance statewide had further dropped. Nonetheless, the data in the table above related to lack of health insurance coverage may serve as a proxy for access to health care.

IMPACT ON PROVIDERS AND STAFF

On November 3, 2017, MHRI sent notices to all affected employees that MHRI intends to close, as required by the Worker Adjustment and Retraining Notification (WARN) Act, 29 U.S.C. 2101 et seq., which requires employers to give employees 60-days prior written notice in the event of a pending plant closing. The November 3, 2017 letter informed staff,

“Currently, your last day of work is scheduled to be on January 12, 2018. This date may change due to factors currently out of the control of the Hospital, including approval of the Department of Health. If circumstances should necessitate a different termination date, you will be notified immediately in writing. The Hospital will ensure that you will be paid all earned wages and agreed upon benefits at the time of your termination.”

The November 3, 2017 letter further informed staff,

"In addition, please note that we are holding open positions across the system so they may possibly be filled by Memorial employees. To assist our valued employees, we will be holding a job fair on November 8, 2017 at Memorial. Representatives from across Care New England will be there to assist you with applying for current job openings, and representatives from the Rhode Island Department of Labor and Training will be on site."

On December 7, 2017, the United Nurses & Allied Professionals union ("UNAP") Local 5082 filed a lawsuit in Superior Court against CNE and RIDOH stating that RIDOH had allowed CNE to circumvent the Hospital Conversion Act.

Through several media outlets RIDOH was informed that CNE has made recent commitments to the UNAP to keep as many as 200 jobs in the city of Pawtucket.

On December 19, 2017, UNAP withdrew its lawsuit.

FINDINGS

Based upon the criteria previously detailed herein and as follows, RIDOH makes the following findings on the impact of CNE's November 2, 2017 plan for the elimination of the Emergency Department at MHRI:

Identification and description, including supporting data and statistical analyses, of the impact of the proposed elimination or reduction on:

- 1) Access to health care services for traditionally underserved populations, including but not limited to, Medicaid, uninsured and underinsured patients, and racial and ethnic minority populations;
- 2) The delivery of such services on the affected community: emergency and/or primary care in the cities and towns whose residents are regularly served by the hospital (the "affected" cities and towns);
- 3) Other licensed hospitals or health care providers in the affected community or cities and towns; and
- 4) Other licensed hospitals or health care providers in the state.

1) Access to health care services for traditionally underserved populations, including but not limited to, Medicaid, uninsured and underinsured patients, and racial and ethnic minority populations;

Demographic data show MHRI's primary service areas of Pawtucket, Central Falls, and Providence are traditionally underserved and underinsured. All three geographic areas contain a significant percentage of the population below the Federal Poverty Level, having no health insurance coverage, and higher unemployment rates compared to the averages in Rhode Island. All areas also contain a significant proportion of racial and ethnic minority populations.

Based on the insurance data provided by CNE, services at MHRI are considerably utilized by the traditionally underserved, with 33.6% enrolled in Medicaid in FY 2017; 26.4% enrolled in Medicaid in FY 2016; and 27.1% enrolled in Medicaid in FY 2015.

CNE has represented that it will continue to serve its large primary care population in the Pawtucket region. CNE has represented it will continue to maintain in Pawtucket the services at its Family Care and Internal Medicine Centers; its ancillary services (such as radiology and phlebotomy); and certain physician specialties. CNE has further represented it will provide Walk-in Express Care clinic services in Pawtucket to help serve the needs of community members who need ready access to health care but do not require hospital Emergency Department level care.

Finding: RIDOH finds this proposal may unduly affect access to quality, affordable emergency services for traditionally underserved populations, including but not limited to, Medicaid uninsured and underinsured patients, and racial and ethnic minority populations, which shall be addressed by the conditions in this Decision.

2) The delivery of such services to the affected community: emergency and/or primary care in the cities and towns whose residents are regularly served by the hospital (the “affected” cities and towns);

At the November 27th Public Meeting, Joseph Oriti, Chief Administrative Officer at MHRI, stated, *“seventy percent of the patients from Pawtucket do not use Memorial and eighty-two percent of patients from the broader Memorial service area go other places for healthcare, while physicians also send their patients elsewhere. For these reasons Memorial cannot be adequately staffed and clinically safe and serve patients and clinically satisfy in a viable manner.”*

CNE has represented that it will continue to serve its large primary care population in the Pawtucket region. CNE has represented it will continue to maintain in Pawtucket the services at its Family Care and Internal Medicine Centers; its ancillary services (such as radiology and phlebotomy); and certain physician specialties. CNE has further represented it will provide Walk-in Express Care clinic services in Pawtucket to help serve the needs of community members who need ready access to health care but do not require hospital Emergency Department level care.

Finding: RIDOH finds this proposal may unduly impact the delivery of emergency services on the affected community, which shall be addressed by the conditions in this Decision.

3) Other licensed hospitals or health care providers in the affected community or cities and towns;

There are 12 acute care hospitals in Rhode Island (excluding MHRI). Of the 12 Rhode Island hospitals and including Sturdy Memorial Hospital in Massachusetts, there are 7 hospitals within a 10-mile radius of MHRI and nine (9) within a 16-mile radius. Miriam Hospital (~3 miles, ~10 minutes² from MHRI), Rhode Island Hospital (~7 miles, ~12 minutes from MHRI), Roger Williams Medical Center (~7 miles, ~12 minutes from MHRI), Fatima Hospital (~7 miles, ~16 minutes from MHRI), Women & Infants Hospital (~7 miles, ~12 minutes from MHRI), Bradley Hospital (~7 miles, ~17 minutes from MHRI), Kent Hospital (~16 miles, ~22 minutes from MHRI), Landmark Medical Center (~21 miles, ~25 minutes from MHRI), and Sturdy Memorial Hospital (~9 miles, ~15 minutes from MHRI) are likely to experience increased utilization of their services.

There are ten (10) federally qualified health center locations in the affected communities within a 10-mile radius of MHRI, including those operated by Blackstone Valley Community Health Care (~1 mile, ~3 minutes from MHRI), The Providence Center (~4.5 miles, ~9 minutes from MHRI), East Bay Community Action Program (~8 miles, ~20 minutes from MHRI), Tri-Town Community Action Program (~9 miles, ~13 minutes from MHRI), and Providence Community Health Centers, Inc. (~7.5 miles, ~12 minutes from MHRI). In its proposal, CNE stated to some extent each are likely to experience increased utilization for primary care.

In its proposal, CNE stated *“Management of MHRI have had meetings with representatives of several hospitals and community health centers in the service area. Each has indicated that they have the capacity and willingness to accept patients and provide services for patients transitioning from MHRI.”*

² Travel times are non-rush hour estimates; Available on google.com/maps, Accessed on December 21, 2017

Finding: RIDOH finds that this proposal may unduly impact the other licensed hospitals or health care providers in the affected community or cities and towns, which shall be addressed by the conditions in this Decision.

4) Other licensed hospitals or health care providers in the state.

There are 12 acute care hospitals in Rhode Island (excluding MHRI). As noted above, of the 12 Rhode Island hospitals and including Sturdy Memorial Hospital in Massachusetts, there are seven (7) hospitals within a 10-mile radius of MHRI and nine (9) within a 16-mile radius. Other than these 9 hospitals, the impact on the other hospitals in the state is expected to be negligible.

As stated above, there are five (5) federally qualified health centers with ten (10) locations in the affected communities within a 10-mile radius of MHRI. In its proposal, CNE stated, to some extent each are likely to experience increased utilization for primary care.

Finding: RIDOH finds that this proposal may unduly affect the other licensed hospitals or health care providers in the state, which shall be addressed by the conditions in this Decision.

DECISION WITH CONDITIONS

RIDOH has examined the application and related materials submitted by MHRI/CNE and provided due consideration of the record and the public interest in light of attendant circumstances. Accordingly, the Director hereby approves the request of CNE to eliminate the Emergency Department at MHRI. The effective date of the approval to terminate such Emergency Department services is **January 1, 2018**.

General Conditions:

1. MHRI/CNE shall implement the provisions of its “Application for the Elimination of the Emergency Department at the Memorial Hospital of Rhode Island” as detailed in its application and as further conditioned herein.
2. CNE shall submit any material proposed amendments (as determined by the Director) to the “Application for the Elimination of the Emergency Department at the Memorial Hospital of Rhode Island” to RIDOH for pre-approval.
3. CNE shall continue to adhere to and work through the operational Hospital Plan of Closure as filed with RIDOH.

Transportation:

4. CNE shall execute an expanded transportation plan for the residents of the impacted areas that includes, but is not limited to, the following components:
 - a. An expanded shuttle transport service for patients (with accompanying family members) who received services at MHRI in the previous 12-months for non-emergent chronic conditions that require services which should be obtained at a hospital (examples include

but are not limited to infusion services, cancer treatment, etc.) shall be provided on an as-needed basis to transport patients to a hospital of the patients' choice within a 10-mile radius of MHRI.

- b. CNE shall provide this expanded transportation service at no cost to any of these patients or accompanying family members.
- c. CNE shall provide written notification to its patients and the public of the availability of the transportation services described in part (a) above, in English, Spanish and Portuguese languages, readable at a fourth-grade reading level, and be pre-approved by RIDOH.
- d. CNE shall submit a written plan to RIDOH on or before January 15, 2018 and will execute the approved transportation plan within two (2) weeks from the date of approval of the written transportation plan.
- e. CNE shall provide the expanded transportation service for a minimum of 12 months.
- f. At the 3-month, 6-month, 9-month, and at the 12-month mark after January 1, 2018, CNE shall provide a summary to RIDOH detailing the utilization of the expanded transportation service for patients. CNE shall include in said summary all relevant data and any patient satisfaction feedback that may be available.

Emergency Medical Services:

- 5. CNE shall make two (2) annual distributions to the cities of Pawtucket and Central Falls in order to financially support Emergency Medical services and offset EMS costs associated with transporting patients to other hospitals. The total distribution annually will be \$500,000. The first distribution shall be made within thirty (30) days of January 1, 2018 with \$300,000 distributed to the City of Pawtucket and \$200,000 to the City of Central Falls. On or before January 1, 2019, CNE shall make a second total distribution of \$500,000, with \$300,000 going to the City of Pawtucket and \$200,000 to the City of Central Falls.
- 6. Given RIDOH's finding that there may be an undue impact on the community and/or other licensed hospitals and health care providers due to the closure of the Emergency Department, CNE, in conjunction with RIDOH, shall convene a group of stakeholders to begin meeting within one (1) month from January 1, 2018 to explore and propose immediate innovative solutions and/or pilot programs that will lessen the impact on the community and/or other licensed hospitals and health care providers. Such approaches may include, but not be limited to changes in emergency medical dispatching, mobile integrated healthcare, and/or directing EMS calls to walk-in or urgent care centers under appropriate circumstances. The funds distributed by CNE, as required in Condition #5 above, shall be used to support the proposed solutions and/or pilot programs. Stakeholders shall include, but not be limited to: representatives from CNE, representatives from RIDOH, representatives from any impacted hospitals, representatives from the impacted towns and cities, representatives of primary care in the impacted area, representatives of EMS, etc. Among other things, the group of stakeholders will specifically solicit and use input from the community in a meaningful way that must be satisfactory to RIDOH to assess such impacts.

Walk-in Clinic:

- 7. CNE shall facilitate the establishment and maintenance of a Walk-in Clinic in Pawtucket, effective on or before January 1, 2018, open 8:00 am to 5:00 pm Monday, Tuesday, Thursday

and Friday and 8:00 am to 8:00 pm on Wednesdays, as stated in CNE's "Plan for Provision of Services to our Patients in the Memorial Service Area" (see Appendix I attached). On or before February 1, 2018, CNE shall expand the hours of the clinic to seven (7) days a week for a minimum of ten (10) hours a day and any decrease in the hours of operations shall be pre-approved by RIDOH.

8. CNE shall staff and/or support the staffing of the walk-in clinic at adequate staffing levels as determined by RIDOH, any decrease in staffing levels shall be pre-approved by RIDOH.
9. CNE shall meet the requirements of the *Statewide Standards for the Provision of Charity Care* within the *Rules and Regulations Pertaining to Hospital Conversions* for all patients presenting to the Walk-in Clinic and thus will not turn away any patients based on insurance-type or ability to pay.
10. CNE shall facilitate the provision of care to all patients presenting to the Walk-in Clinic regardless if they are an existing patient of CNE's physician practices.
11. CNE shall provide utilization data, as defined by RIDOH, for the Walk-in Clinic to RIDOH at the 3-month, 6-month, 9-month, and at the 12-month mark from January 1, 2018.

Staffing and Residency Program:

12. CNE shall continue to make available and notify staff of outplacement and career transition services, including, but not limited to: the services of an outplacement firm engaged by CNE; access to a job fair at which all operating units of CNE are represented, as well as other employers; on-site representatives from the state Department of Labor and Training and representatives from CNE's Employee Assistance Program.
13. CNE shall "train out" to completion, based on the standards of the American College of Graduate Medical Education, all residents currently training at MHRI, as stated in CNE's "Plan for Provision of Services to our Patients in the Memorial Service Area" (see Appendix I attached).
14. CNE shall submit any required applications in order to keep all residency slots that were at MHRI in the state long-term (i.e. beyond the three (3) years to "train out" the current residents). CNE shall seek to:
 - a. maintain at a minimum all of the current residency slots as were at MHRI long-term in the state; and
 - b. maintain at a minimum all of the current proportion of primary care residency slots as were at MHRI long-term in the state.

Maintenance of Healthcare Services:

15. CNE shall fully maintain MHRI's Family Care and Internal Medicine Centers in Pawtucket at their current hours and staffing levels and any changes to location or decreases in hours of operations or staffing levels shall be pre-approved by RIDOH.

16. CNE shall fully maintain MHRI's ancillary services at a Pawtucket location(s), including but not limited to radiology, phlebotomy, and appropriate rehabilitative services such as physical and occupational therapy services (such services may be maintained through contracting).
17. CNE shall fully maintain MHRI's physician specialties as per CNE's "Plan for Provision of Services to our Patients in the Memorial Service Area" (see Appendix I attached), including but not limited to its pediatrics and pediatric neurodevelopment practices in Pawtucket and make available rotating physician specialty consultations (including but not limited to the following specialties: oncology, cardiology [including some cardiology testing], dermatology, pulmonary medicine, sleep medicine and general and orthopedic surgery) and anticoagulation and Coumadin clinic services at CNE's primary care site in Pawtucket.
18. CNE shall meet the requirements of the *Statewide Standards for the Provision of Charity Care* within the *Rules and Regulations Pertaining to Hospital Conversions* for all patients presenting to the Family Care and Internal Medicine Centers and thus will not turn away any patients based on insurance-type or ability to pay.

Public Notification:

19. CNE shall immediately notify the public of the availability of the Walk-in Clinic and make all efforts to educate the public on the uses of the Walk-in Clinic on an ongoing and consistent basis, through multiple outlets including but not limited to: press release, social media, local signage, such notifications shall be in English, Spanish and Portuguese languages, readable at a fourth-grade reading level, and be pre-approved by RIDOH.
20. CNE shall immediately notify the public of the closure of the Emergency Department at MHRI on an ongoing and consistent basis until at least one (1) week following January 1, 2018, through multiple outlets including but not limited to: press release, social media, local signage; such notifications shall be in English, Spanish and Portuguese languages, readable at a fourth-grade reading level, and be pre-approved by RIDOH.
21. CNE shall post multi-lingual notices in conspicuous places at the site of the Emergency Department, within 24-hours from the date of this Decision, informing the public of the closure of the Emergency Department; such notifications shall be in English, Spanish and Portuguese languages, readable at a fourth-grade reading level, and be pre-approved by RIDOH.
22. CNE shall update the phone lines at MHRI, effective immediately from the date of this Decision, to inform the public the Emergency Department is no longer operational; such communication shall be in English, Spanish and Portuguese languages, and be pre-approved by RIDOH.

Health Equity Conditions:

23. CNE shall:
- a. within thirty (30) days of January 1, 2018, meet with the collaborative partners of the Pawtucket and Central Falls Health Equity Zone (HEZ) to establish a plan for the investment of financial resources to support the sustainability of the Pawtucket and Central Falls HEZ collaborative;
 - b. within 60 days of January 1, 2018, submit to RIDOH a written plan for review and approval for the investment of financial resources, in the sum of \$100,000 or more annually for a minimum of five (5) years, to the Pawtucket and Central Falls HEZ. This plan should include at minimum:
 - i. the total dollar amount to be invested per year;
 - ii. a detailed explanation on how CNE will engage with the HEZ beyond funding;
 - iii. a detailed description on how CNE and its investment plan will address the community needs identified in the [Pawtucket and Central Falls HEZ's needs assessments/priorities](#);
 - c. within ten (10) days of approval of the investment plan by RIDOH, and every year thereafter on the same date, disperse funding to support the continued sustainability of the HEZ collaborative Pawtucket and Central Falls in accordance with the approved plan;
 - d. submit a report annually to RIDOH on the progress of the collaborative investment in the Pawtucket and Central Falls HEZ, on or before July 1 of each year.

Assessment and Monitoring:

24. CNE shall pay for the costs of an independent consultant, chosen and directed by RIDOH, to do at a minimum the following:
- a. assess which other or additional health services are necessary to protect the health and well-being of Pawtucket and Central Falls most vulnerable populations. Among other things, the consultant will utilize the findings of the stakeholder group convened through Condition #6 above and will specifically solicit and use input from the community in a meaningful way that must be satisfactory to RIDOH to assess such need. CNE shall implement a plan to fulfill such an assessment based on input from the community, as approved by RIDOH.
 - b. determine the long-term impacts of the closure of the Emergency Department at MHRI on the community and on other licensed hospitals and health care providers in the state. Among other things the independent consultant will utilize the findings of the stakeholder group convened through Condition #6 above and will specifically use input from the community in a meaningful way that must be satisfactory to RIDOH to measure such impact. CNE shall implement a plan to remedy such impact.
 - c. provide updates at the 3- month, 6-month and 9-month mark from the date of this Decision outlining any preliminary findings of the assessments conducted in parts (a) and (b) above; and
 - d. create a report, within one (1) year of January 1, 2018, outlining:
 - i. the findings of the assessments conducted in parts (a) and (b) above;
 - ii. how the community input was solicited and incorporated into the plan to address such findings.

25. CNE shall pay for the costs of an independent monitor, chosen by RIDOH, to monitor for three (3) years from the Date of this Decision CNE's compliance with each of these conditions as set forth above.

Any modification by CNE to these conditions as set forth above shall require prior written approval by RIDOH.

The conditions set forth above shall be enforceable and have the same force and effect as if imposed as a condition of licensure, in accordance with RIGL 23-17. Additionally, in accordance with RIGL 23-17.14-30, the Director of RIDOH may take appropriate action to enforce compliance with these conditions. If any of the aforesaid conditions or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect any other condition or application of any other condition which can be given effect without the invalid provision, condition, or application, and to this end the conditions, and each of them severally, are declared to be severable.

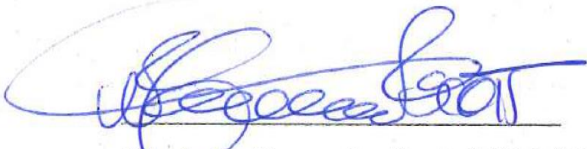
This Decision shall be limited to the elimination of the Emergency Department at MHRI. Nothing in this Decision shall be interpreted to mean that CNE's plan to transfer the provision of primary care services currently provided under the MHRI licenses to the Kent Hospital and Women and Infants Hospital licenses or CNE's Hospital Closure Plan have been approved by RIDOH.

To insure continuity of care and patient safety, this Decision (with conditions) shall not impact the hospital license of MHRI, which shall stay in full force and effect in accordance with Rhode Island law and the *Rules and Regulations for Licensing of Hospitals*, further order of the Rhode Island Department of Health, notwithstanding the approval to terminate the emergency services of the hospital, as set forth herein.

This Decision for Approval with Conditions shall be applicable to all successor(s) entities of CNE.

RHODE ISLAND DEPARTMENT OF HEALTH

BY:



Nicole E. Alexander-Scott, MD, MPH
Director of Health

December 28, 2017

Date

Appendix I

CNE's "Plan for Provision of Services to Our Patients in the Memorial Service Area"

PLAN FOR PROVISION OF SERVICES TO OUR PATIENTS IN THE MEMORIAL SERVICE AREA

BACKGROUND

Care New England's Memorial Hospital of Rhode Island (MHRI) has filed a reverse certificate of need application (RCON) to the Rhode Island Department of Health (RIDOH) to close MHRI's inpatient and emergency department services. As MHRI currently provides an array of primary care office-based services under MHRI's license, an additional RCON application has been filed to close the primary care services operating under that license. Subsequently, separate from the RCON application processing, CNE has filed several license permit applications to add several Pawtucket locations as additional locations under the Kent County Memorial Hospital (Kent) and Women & Infants Hospital (W&I) licenses. CNE has been diligent in working with RIDOH during the regulatory process with the RCONs. Also, managing the staff at MHRI has been foremost in our minds as we have worked to ensure they are receiving communications first and not via the press or others.

VARIABLES AND HURDLES IMPACTING PLANS

CNE has stated, on numerous occasions, that it remains committed to serving its large primary care population in the Pawtucket region. Essential to Integra, our Accountable Care Organization, and our successful initiatives in population health, is a continuing dedication to primary care. The goal of the proposed set of services is to provide such services that the patient population needs and has utilized over the past number of years. With the ever-constant change in health care delivery and how such services are paid, it is essential that any service array is efficient and economically prudent.

The financial performance of MHRI has been devastating to the past and current organizations operating the hospital. The pressure of declining reimbursement with increasing costs of labor, supplies and pharmaceuticals exacerbates the challenges all hospitals and health care systems face. In addition, the number of uninsured and under insured patients is likely to increase as the federal government continues to drastically change our current health care payment system. As such, the proposed set of services requires vigilant attention to ensuring the set of services is cost-efficient, flexible, and adaptable to changes in the competitive environment and not overly encumbered with mandates. If not, the risk of financial catastrophe remains. For example, requiring a minimum number of physicians or employees makes little sense if the patients seeking services declines due to accelerated competition in the area or if a new model of care emerges.

Another hurdle to producing a "final" and flexible plan for a set of services is the ability to attract and retain physicians in the current challenging physician reimbursement environment in Rhode Island. Some of the proposed services are not set in stone as we do not have signed contractual arrangements with some of the providers. Given the recent change in MHRI's status, some of our current providers will depart and recruitment will be a challenge.

LOCATION OF SERVICES

An essential premise in the provision of services in Pawtucket is the absolute imperative to close the inpatient buildings because the carrying costs of keeping them open is absolutely prohibitive. CNE has committed to remain in the Pawtucket area and has discussed repeatedly with public officials the plans to move from the current campus to a renovated building in the city.

RESIDENCIES

Right now, the Family Care and Internal Medicine Centers serve as training sites for residencies affiliated with The Warren Alpert Medical School of Brown University. We will seek to transfer these residencies and this affiliation from MHRI to Kent. This transfer will require approval by both the American College of Graduate Medical Education and the Centers for Medicare & Medicaid Services (CMS), as well as by The Warren Alpert Medical School of Brown University.

We are hopeful that we will be able to obtain these approvals and, if we do, physician practice-based training for these residencies would continue to be done at the site in Pawtucket. There are currently 39 family medicine residents and 30 internal medicine residents training in these residencies. The current three years of residents will be “trained out” to completion of their residency. As each year graduates, these residency slots are relinquished into a regional pool open to distribution by CMS. Currently, CNE is reviewing the appropriate size of the residency programs that ensure an excellent residency experience. CNE is working with Brown and the other providers of residency education to assure as many slots as possible remain in Rhode Island. Our ability to retain these residencies will be key to our plans to continue services in Pawtucket as described below.

CLINICAL SERVICES

The current clinical program proposal is still in evolution. As stated above, the uncertain health care payment environment makes any prospective financial analysis unpredictable and contract arrangements preclude a definitive and “etched in stone” program description. Also, the residency program continuation requires approval. CNE does not control any of the above external factors that can have a tremendous impact on whether the provision of the services can be financially viable and sustainable. Having said that, CNE intends to make good faith efforts to increase patient volume through community outreach so these programs can be financially viable. With this backdrop in mind, the following is a summary of our present plans for services that CNE expects to provide in Pawtucket:

1. **Family Care and Internal Medicine Centers.** At the site in Pawtucket, primary care physicians and nurse practitioners will provide comprehensive health care services in the outpatient clinic setting. What this means is that they will continue to treat general medical needs and provide care for a vast array of non-emergency health conditions. For example, primary care providers treat acute medical conditions such as the common cold, sinus infections, stomach problems and skin rashes, but they also treat chronic health problems such as depression, asthma, high blood pressure and allergies. This also includes services currently provided in the Family Care Center by a part time nutritionist and by a part time psychologist. They also provide preventive care and coordinate any specialty care patients need, treating each as a whole person with unique experiences and concerns. These will continue to be delivered in a way that is patient-centered, coordinated and committed to quality and safety. Currently, the Family Care and Internal Medicine Centers have approximately 20,000 patient primary care visits per year. It is our hope that we will be able to maintain a comparable volume of patient activity at the Pawtucket site.

2. **Ancillary Services.** There will be certain ancillary services commonly associated with primary care practices, such as plain-film X-rays (chest films and bone x-rays), mammograms and phlebotomy (blood draws for lab work). We also hope to contract for physical and occupational therapy services at our Pawtucket location and to provide diabetes education by certified diabetes educators.

3. **Physician Specialties.** Subject to retaining grant funding associated with research in pediatric neurodevelopment, we plan to continue within CNE the pediatrics and pediatric neurodevelopment practices. We also expect to make available rotating physician specialty consultations at our primary care site in Pawtucket as appropriate to complement the primary care practice. Initially, the planned specialties include oncology, cardiology (including some cardiology testing), dermatology, pulmonary medicine, sleep medicine and general and orthopedic surgery. We will also continue anticoagulation/Coumadin clinic services as currently provided at the site. We will need to find physicians who are willing to contract to provide several of these services and develop plans that consider feasibility and patient demand and because we want to assure that the services we have there can be sustained in the long term.

4. **Walk-in Clinic Services.** We are developing a plan to provide walk-in services to help serve the needs of community members who need ready access to health care but do not require hospital level care. This will be helped by our ability to access the physicians and ancillary services we will have at our site in Pawtucket and address the needs of many patients who need quick access to care in the local community. Many patients who present in emergency departments do not require hospital level care and we believe we will be able to help serve the needs of these patients who would otherwise have presented at an emergency department but are appropriate for outpatient primary care walk-in clinic services for injuries and ailments such as cuts, sprains and strains, minor traumas, cold, flu and headache. As of now we plan for the walk-in clinic to be open 8:00-5:00 Monday, Tuesday, Thursday and Friday and 8:00 to 8:00 on Wednesdays. People coming to us for care will not need to be existing patients of our physician practices to seek primary or urgent care on a walk-in basis and we will not turn away any patients based on insurance or ability to pay.

CONCLUSION

In conclusion, Care New England is dedicated to meeting the needs of the population that has historically been served by MHRI in a way that honors and continues some of the best MHRI has offered over the years while acknowledging the changing dynamics and future of health care. Subject to obtaining appropriate regulatory approvals, the proposed programs described above will be licensed as Kent or (in the case of pediatrics) W&I programs. Like any other clinical service/program offered by any provider, ongoing operational and financial review is required to assure the proper level of service is delivered in the most efficient manner. This is especially true given the financial uncertainties resulting from current and proposed federal initiatives and other evolving dynamics in health care.